

MR-2334/91

BK 3512 PG 98
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RESTRICTION AGREEMENT

THIS AGREEMENT is made and entered into this 17th day of July, 1995 by and between ReSolve, Inc., a Massachusetts corporation having a usual place of business in North Dartmouth, Bristol County, Massachusetts, and the Settling Defendants as defined in a Consent Decree filed with the United States District Court for the District of Massachusetts on February 9, 1989 in U.S. v. ADAC Corporation et al, Civil Action No. 89-0307-S (the "Consent Decree").

WITNESSETH:

WHEREAS, ReSolve, Inc. is the owner of certain real property located on North Hixville Road in North Dartmouth, Bristol County, Massachusetts, as more particularly described in Exhibit A hereto which is made part hereof (the "ReSolve Site");

WHEREAS, the ReSolve Site comprises the major portion of a site designated pursuant to the provisions of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §9601 et. seq. ("CERCLA") in September, 1983 by the United States Environmental Protection Agency (hereinafter "EPA") as a Superfund National Priorities List Site (the "Site");

WHEREAS, EPA, The Commonwealth of Massachusetts (the "Commonwealth") and the Settling Defendants have entered into the Consent Decree pursuant to which the Settling Defendants are authorized and required to perform certain response actions at the Site (hereinafter the "Work");



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WHEREAS, the Consent Decree provides that the Settling Defendants shall obtain deed restrictions which ensure non-interference with the performance of the Work and which provide for certain "institutional controls" as specified in the Consent Decree;

WHEREAS, the Consent Decree further provides that if the Settling Defendants are unable to secure Site access or deed restrictions, the United States and the Commonwealth shall thereafter assist the Settling Defendants in obtaining the same;

WHEREAS, EPA and the Commonwealth each have broad authorities to require Site access and impose appropriate restrictions, including, but not limited to, the authority specified in Section 104(e) of CERCLA;

WHEREAS, ReSolve, Inc. and the Settling Defendants have previously entered into an Easement and Restriction Agreement dated May 22, 1989 and recorded with the Bristol County Southern District Registry of Deeds in Book 2334 Page 91 (the "Easement and Restriction Agreement") pursuant to which ReSolve, Inc. agreed to restrict the present and future uses of the ReSolve Site in order to ensure non-interference with the performance of the Work and to provide for the required institutional controls; and

WHEREAS, ReSolve, Inc. and the Settling Defendants wish to clarify the scope of the existing restrictions granted pursuant to paragraph 2 of the Easement and Restriction Agreement, a copy of which is attached hereto as Exhibit B and incorporated herein

by this reference (the "Restrictions") so as specifically to conform the Restrictions to the precise wording of Section V.B of the Scope of Work which appears as Appendix 2 to the Consent Decree (the "Scope of Work").

NOW, THEREFORE, in consideration of the foregoing, of the Settling Defendants' continuing to conduct the Work and other activities authorized by or related to the Consent Decree and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, ReSolve, Inc. grants, conveys, covenants and agrees as follows:

1. Confirmation of the Restrictions.

ReSolve, Inc. hereby confirms as remaining in full force and effect and, to the extent necessary, extends each and every of the Restrictions which are set forth in paragraph 2 of the Easement and Restriction Agreement and are attached hereto as Exhibit B.

2. Confirming the Language of the Restrictions to Section V.B of the Scope of Work.

In order to conform the Restrictions to the precise wording of Section V.B of the Scope of Work and without in any way limiting or circumscribing the scope of the Restrictions, ReSolve, Inc. hereby covenants and agrees for itself and all its successors and assigns, including all its successors in title to the ReSolve Site, that from and after completion of the Work, the

following restrictions shall apply with respect to the ReSolve Site.

- a. There shall be no intrusive earthwork activities beyond six inches deep and only for superficial regrading;
- b. There shall be no off-site trucking of on-site soils;
- c. All desired landscaping is to be done by bringing fill on-site;
- d. All plans for development of any kind whatsoever are to be approved by EPA and the Commonwealth; and
- e. There shall be no residential development of any kind whatsoever permitted on the ReSolve Site.

If for any reason these specific restrictions as specified in Section V.B of the Scope of Work are less restrictive than the existing Restrictions, then the more restrictive Restrictions shall control.

As is the case with the existing Restrictions, it is specifically intended and declared that these restrictions shall be perpetual and shall run with and bind the real property comprising the ReSolve Site unless and until they are released at any time or from time, to time, in whole or in part, by written instrument(s) executed by the Settling Defendants (acting by and through the then serving Executive Director of the above-described ReSolve Site Group), EPA and the Commonwealth. Each of these restrictions shall be fully enforceable by each of the Settling Defendants and by EPA and the Commonwealth (hereinafter

individually and collectively referred to as the "Benefitted Parties").

3. Confirming or Extending Documents or Instruments.

ReSolve, Inc. agrees, at the request of the Benefitted Parties, promptly to sign, seal, acknowledge and deliver in form suitable for recording with the Bristol County Registry of Deeds and all other appropriate offices of public record such other instruments and documents as the Benefitted Parties shall deem necessary or appropriate:

- (a) to confirm or perfect the restrictions herein granted or set forth; and
- (b) to extend, and thereby continue in full force and effect, the said restrictions.

The said instruments and documents shall include, without limiting the generality of the foregoing, all notices or instruments of extension required by the provisions of Chapter 184 of the Massachusetts General Laws with respect to the maintenance in force of restrictions affecting real property.

4. Governing Law; Interpretation.

This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts and shall be liberally interpreted so as to effect its remedial purpose of ensuring the continued effectiveness of all institutional controls contemplated by the Consent Decree, including as part thereof the Scope of Work.

5. Binding Effect and Power of Attorney.

This Agreement shall be binding upon all successors and assigns of ReSolve, Inc. The provisions of paragraph 2 hereof shall be enforceable by each of the Settling Defendants and by EPA and the Commonwealth. In the event that ReSolve, Inc. shall no longer have legal existence or shall fail to sign, seal, acknowledge and deliver any document or instrument referred to in paragraph 3 hereof within thirty (30) days after written request therefor has been made by a Benefitted Party in accordance with the notice of provisions of paragraph 6 hereof, then in either such case the Settling Defendants (acting by and through the then serving Executive Director of the above-described ReSolve Site Group) or EPA or the Commonwealth shall have the right to sign, seal, acknowledge and deliver any document or instrument referred to in said paragraph 3 for and on behalf of ReSolve, Inc. or ReSolve, Inc.'s then successor in title to the ReSolve Site, as the case may be, and such document or instrument shall be binding upon ReSolve, Inc. and its successors in title to the ReSolve Site. For purposes of this paragraph 5, ReSolve, Inc. hereby designates each of

- (a) the Settling Defendants (acting by and through the then serving Executive Director of the above-described ReSolve Site Group);
- (b) EPA; and
- (c) the Commonwealth

as its true and lawful attorney-in-fact, with full power of substitution, to act for and on its behalf. This power of attorney, being coupled with an interest in the ReSolve Site, is and shall be irrevocable.

6. Notices.

All notices, requests, demands or other written communication shall be deemed duly given at such time as they are deposited into the United States mails sent by certified or registered mail, return receipt requested, addressed to:

ReSolve, Inc.
c/o William F. Jackson
P.O. Box 265
Warren, Rhode Island 02885

7. No. Waiver.

No failure to assert or exercise any right or easement or to enforce any restriction hereunder on any one or more occasion(s), or any other conduct of the Benefitted Parties, shall constitute or result in a waiver thereof, it being the intent and understanding of the parties that the restrictions herein set forth may not be waived except by written instrument signed, sealed, acknowledged and delivered by the party being charged with the waiver; nor shall a waiver on any one occasion be construed as a continuing waiver so as to constitute a waiver on another occasion unless specifically so stated in the instrument of waiver.

8. Authorized Representative of the ReSolve Site Group.

ReSolve, Inc. and all other persons who deal with the ReSolve Site in connection with the restrictions set forth in

this Agreement shall be entitled to rely upon documents and instruments as being duly authorized by and binding upon the Settling Defendants, if such documents or instruments are executed and delivered by and on behalf of the Settling Defendants by the Executive Director of the ReSolve Site Group. A certificate executed by a party who certifies therein that it is the then duly serving Executive Director of the ReSolve Site Group may be relied upon as conclusive evidence of the facts set forth therein by all persons who do not have actual knowledge to the contrary.

9. Amendment.

This Agreement may be modified or amended only by written instrument signed, sealed, acknowledged and delivered by ReSolve, Inc., the Settling Defendants (acting by and through the then serving Executive Director of the above-described ReSolve Site Group), EPA and the Commonwealth.

IN WITNESS WHEREOF, this Restriction Agreement has been signed, sealed, acknowledged and delivered by William F. Jackson, as President and Treasurer of ReSolve, Inc., being hereunto duly authorized, for and on behalf of ReSolve, Inc. as of the date first above written.

William F. Jackson
Witness

By:

RESOLVE, INC.

William F. Jackson
Its President and Treasurer

STATE OF RHODE ISLAND

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Bristol County, ss

July 17
June, 1995

Then personally appeared William F. Jackson, President and
Treasurer as aforesaid, and acknowledged the foregoing instrument
to be his free act and deed and the free act and deed of ReSolve,
Inc., before me.


Notary Public
My Commission Expires: 5/16/96

Exhibit A

The land in Dartmouth, County of Bristol, Massachusetts, situated Easterly from the Easterly line of the road leading Northerly from the village of Hicksville, so-called, as bounded and described in the deed from William F. Darling to ReSolve, Inc. dated February 28, 1956, and recorded with Bristol South District Registry of Deeds at Book 1180, Page 145.

The said land has the benefit of and is subject to the rights, rights of way and easements set forth in said deed.

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EXHIBIT B2. Restrictions.

Consistent with the requirements for the imposition of certain "institutional controls" on and with respect to the Site as set forth in the Consent Decree, ReSolve, Inc. hereby covenants and agrees for itself and all its successors and assigns, including all its successors in title to the ReSolve Site, that:

(a) Neither it nor its said successors and assigns shall take or cause to be taken any action(s) which will interfere in any way with the performance of the Work or any other activity authorized by or related to the Consent Decree.

(b) Neither it nor its said successors and assigns shall enter upon or attempt to enter upon the ReSolve Site without first (i) obtaining the written permission of the Settling Defendants (acting by and through the then serving Executive Director of the ReSolve Site Group, an unincorporated association), EPA and the Commonwealth and (ii) complying with all applicable health, safety and other precautions relating to the ReSolve Site and to the Work and other activities being performed thereon or undertaken in connection therewith.

(c) From and after the completion of the Work, neither it nor its said successors and assigns shall take or permit to be taken any of the following actions with respect to the Premises:

(i) The drilling or installation of any wells for the extraction of groundwater which may be under or emanating from the ReSolve Site, with the sole exception of

groundwater extraction, reinjection, monitoring and/or other like wells which may be installed by or on behalf of the Benefitted Parties as part of or connected with the Work or other activities authorized by or related to the Consent Decree;

(ii) The construction and/or use of any buildings, structures or improvements of any kind or character upon, in or under the ReSolve Site, with the sole exception of such buildings, structures and improvements (including equipment, machinery and materials) which are part of or connected with the Work or other activities authorized by or related to the Consent Decree.

It is specifically intended and declared that these restrictions shall be perpetual and shall run with the bind the real property comprising the ReSolve Site unless and until they are released at any time or from time to time, in whole or in part, by written instrument(s) executed by the Settling Defendants (acting by and through the then serving Executive Director of the above-described ReSolve Site Group), EPA and the Commonwealth. Each of these restrictions shall be fully enforceable by each of the Settling Defendants and by EPA and the Commonwealth.



William Francis Galvin
Secretary of the
Commonwealth

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The Commonwealth of Massachusetts

Secretary of the Commonwealth

State House, Boston, Massachusetts 02133

REVIVAL CERTIFICATE

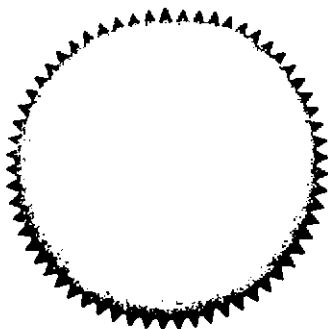
July 13, 1995

WHEREAS:

In compliance with the provisions of Section 108 of Chapter 156B of the Massachusetts General Laws, application in proper form having been seasonably made upon me, the Secretary of the Commonwealth, for the revival of

Re-Solve, Inc.

a domestic corporation organized December 2, 1955 under the authority of Chapter 156B of the Massachusetts General Laws, and dissolved under the provisions of Chapter 156B of the Massachusetts General Laws, and the required fee having been complied with, I hereby declare that said corporation is revived for a period of time not to exceed one (1) year for the purpose of entering into a further restriction agreement with certain settling defendants, but not for the purpose for which it was organized.



In testimony of which,

I have hereunto affixed the

Great Seal of the Commonwealth

on the date first above written.

William Francis Galvin

Secretary of the Commonwealth